

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 502

Introduced by Assembly Member Chau

February 23, 2015

An act to amend Section 1926 of the Business and Professions Code, to amend Sections 13401 and 13401.5 of the Corporations Code, to add Section 1374.196 to the Health and Safety Code, and to add Section 10120.4 to the Insurance Code, relating to dental hygiene.

LEGISLATIVE COUNSEL'S DIGEST

AB 502, as amended, Chau. Dental hygiene.

(1) Existing law, the Dental Practice Act, provides for the licensure and regulation of registered dental hygienists, registered dental hygienists in extended functions, and registered dental hygienists in alternative practice by the Dental Hygiene Committee of California.

Existing law authorizes a registered dental hygienist in alternative practice to perform various duties in specified settings, including dental health professional shortage areas, as certified by the Office of Statewide Health Planning and Development.

This bill would provide that an alternative dental hygiene practice established within a certified shortage area is not required to close due to the removal of the dental health professional shortage area designation if the registered dental hygienist in alternative practice meets certain requirements.

(2) Existing law, the Moscone-Knox Professional Corporation Act, prohibits a professional corporation from rendering professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which the corporation is or proposes to be engaged and excepts any professional corporation rendering professional services by persons duly licensed by specified state entities from that requirement. Existing law authorizes specified healing arts practitioners to be shareholders, officers, directors, or professional employees of a designated professional corporation, subject to certain limitations relating to ownership of shares.

This bill would additionally except any professional corporation rendering professional services by persons duly licensed by the Dental Hygiene Committee of California from the certificate of registration requirement. The bill would authorize dental assistants and licensed dentists to be shareholders, officers, directors, or professional employees of a registered dental hygienist in alternative practice corporation.

(3) Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law provides certain standards that govern health care service plan contracts covering dental services, health insurance policies covering dental services, specialized health care service plan contracts covering dental services, and specialized health insurance policies covering dental services.

This bill would require health care service plan contracts covering dental services, health insurance policies covering dental services, specialized health care service plan contracts covering dental services, and specialized health insurance policies covering dental services issued, amended, or renewed on or after January 1, 2016, to provide specified reimbursement for registered dental hygienists in alternative practice performing dental hygiene services that may lawfully be performed by registered dental hygienists and that are reimbursable under the contracts or policies. The bill would also require the plan or insurer to use the same fee schedule for reimbursing both registered dental hygienists and registered dental hygienists in alternative practice. Because a willful violation of the bill's provisions by a health care service plan covering dental services or a specialized health care service plan covering dental services would be a crime, it would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1926 of the Business and Professions
2 Code is amended to read:

3 1926. A registered dental hygienist in alternative practice may
4 perform the duties authorized pursuant to subdivision (a) of Section
5 1907, subdivision (a) of Section 1908, and subdivisions (a) and
6 (b) of Section 1910 in the following settings:

7 (a) Residences of the homebound.

8 (b) Schools.

9 (c) Residential facilities and other institutions.

10 (d) Dental health professional shortage areas, as certified by the
11 Office of Statewide Health Planning and Development in
12 accordance with existing office guidelines. An alternative dental
13 hygiene practice established within a certified shortage area shall
14 not be required to close due to the removal of the dental health
15 professional shortage area designation if the registered dental
16 hygienist in alternative practice continues to serve those patients
17 that lack or have limited access to dental care including, but not
18 limited to, Medi-Cal program patients, and at least 40 percent of
19 the total *patient population of the* alternative dental hygiene
20 practice ~~serves those~~ *is comprised of* underserved populations.

21 SEC. 2. Section 13401 of the Corporations Code is amended
22 to read:

23 13401. As used in this part:

24 (a) "Professional services" means any type of professional
25 services that may be lawfully rendered only pursuant to a license,
26 certification, or registration authorized by the Business and
27 Professions Code, the Chiropractic Act, or the Osteopathic Act.

28 (b) "Professional corporation" means a corporation organized
29 under the General Corporation Law or pursuant to subdivision (b)
30 of Section 13406 that is engaged in rendering professional services

1 in a single profession, except as otherwise authorized in Section
2 13401.5, pursuant to a certificate of registration issued by the
3 governmental agency regulating the profession as herein provided
4 and that in its practice or business designates itself as a professional
5 or other corporation as may be required by statute. However, any
6 professional corporation or foreign professional corporation
7 rendering professional services by persons duly licensed by the
8 Medical Board of California or any examining committee under
9 the jurisdiction of the board, the Osteopathic Medical Board of
10 California, the Dental Board of California, the Dental Hygiene
11 Committee of California, the California State Board of Pharmacy,
12 the Veterinary Medical Board, the California Architects Board,
13 the Court Reporters Board of California, the Board of Behavioral
14 Sciences, the Speech-Language Pathology and Audiology Board,
15 the Board of Registered Nursing, or the State Board of Optometry
16 shall not be required to obtain a certificate of registration in order
17 to render those professional services.

18 (c) "Foreign professional corporation" means a corporation
19 organized under the laws of a state of the United States other than
20 this state that is engaged in a profession of a type for which there
21 is authorization in the Business and Professions Code for the
22 performance of professional services by a foreign professional
23 corporation.

24 (d) "Licensed person" means any natural person who is duly
25 licensed under the provisions of the Business and Professions
26 Code, the Chiropractic Act, or the Osteopathic Act to render the
27 same professional services as are or will be rendered by the
28 professional corporation or foreign professional corporation of
29 which he or she is, or intends to become, an officer, director,
30 shareholder, or employee.

31 (e) "Disqualified person" means a licensed person who for any
32 reason becomes legally disqualified (temporarily or permanently)
33 to render the professional services that the particular professional
34 corporation or foreign professional corporation of which he or she
35 is an officer, director, shareholder, or employee is or was rendering.

36 SEC. 3. Section 13401.5 of the Corporations Code is amended
37 to read:

38 13401.5. Notwithstanding subdivision (d) of Section 13401
39 and any other provision of law, the following licensed persons
40 may be shareholders, officers, directors, or professional employees

1 of the professional corporations designated in this section so long
2 as the sum of all shares owned by those licensed persons does not
3 exceed 49 percent of the total number of shares of the professional
4 corporation so designated herein, and so long as the number of
5 those licensed persons owning shares in the professional
6 corporation so designated herein does not exceed the number of
7 persons licensed by the governmental agency regulating the
8 designated professional corporation. This section does not limit
9 employment by a professional corporation designated in this section
10 to only those licensed professionals listed under each subdivision.
11 Any person duly licensed under Division 2 (commencing with
12 Section 500) of the Business and Professions Code, the
13 Chiropractic Act, or the Osteopathic Act may be employed to
14 render professional services by a professional corporation
15 designated in this section.

16 (a) Medical corporation.

17 (1) Licensed doctors of podiatric medicine.

18 (2) Licensed psychologists.

19 (3) Registered nurses.

20 (4) Licensed optometrists.

21 (5) Licensed marriage and family therapists.

22 (6) Licensed clinical social workers.

23 (7) Licensed physician assistants.

24 (8) Licensed chiropractors.

25 (9) Licensed acupuncturists.

26 (10) Naturopathic doctors.

27 (11) Licensed professional clinical counselors.

28 (12) Licensed physical therapists.

29 (b) Podiatric medical corporation.

30 (1) Licensed physicians and surgeons.

31 (2) Licensed psychologists.

32 (3) Registered nurses.

33 (4) Licensed optometrists.

34 (5) Licensed chiropractors.

35 (6) Licensed acupuncturists.

36 (7) Naturopathic doctors.

37 (8) Licensed physical therapists.

38 (c) Psychological corporation.

39 (1) Licensed physicians and surgeons.

40 (2) Licensed doctors of podiatric medicine.

- 1 (3) Registered nurses.
- 2 (4) Licensed optometrists.
- 3 (5) Licensed marriage and family therapists.
- 4 (6) Licensed clinical social workers.
- 5 (7) Licensed chiropractors.
- 6 (8) Licensed acupuncturists.
- 7 (9) Naturopathic doctors.
- 8 (10) Licensed professional clinical counselors.
- 9 (d) Speech-language pathology corporation.
- 10 (1) Licensed audiologists.
- 11 (e) Audiology corporation.
- 12 (1) Licensed speech-language pathologists.
- 13 (f) Nursing corporation.
- 14 (1) Licensed physicians and surgeons.
- 15 (2) Licensed doctors of podiatric medicine.
- 16 (3) Licensed psychologists.
- 17 (4) Licensed optometrists.
- 18 (5) Licensed marriage and family therapists.
- 19 (6) Licensed clinical social workers.
- 20 (7) Licensed physician assistants.
- 21 (8) Licensed chiropractors.
- 22 (9) Licensed acupuncturists.
- 23 (10) Naturopathic doctors.
- 24 (11) Licensed professional clinical counselors.
- 25 (g) Marriage and family therapist corporation.
- 26 (1) Licensed physicians and surgeons.
- 27 (2) Licensed psychologists.
- 28 (3) Licensed clinical social workers.
- 29 (4) Registered nurses.
- 30 (5) Licensed chiropractors.
- 31 (6) Licensed acupuncturists.
- 32 (7) Naturopathic doctors.
- 33 (8) Licensed professional clinical counselors.
- 34 (h) Licensed clinical social worker corporation.
- 35 (1) Licensed physicians and surgeons.
- 36 (2) Licensed psychologists.
- 37 (3) Licensed marriage and family therapists.
- 38 (4) Registered nurses.
- 39 (5) Licensed chiropractors.
- 40 (6) Licensed acupuncturists.

- 1 (7) Naturopathic doctors.
- 2 (8) Licensed professional clinical counselors.
- 3 (i) Physician assistants corporation.
- 4 (1) Licensed physicians and surgeons.
- 5 (2) Registered nurses.
- 6 (3) Licensed acupuncturists.
- 7 (4) Naturopathic doctors.
- 8 (j) Optometric corporation.
- 9 (1) Licensed physicians and surgeons.
- 10 (2) Licensed doctors of podiatric medicine.
- 11 (3) Licensed psychologists.
- 12 (4) Registered nurses.
- 13 (5) Licensed chiropractors.
- 14 (6) Licensed acupuncturists.
- 15 (7) Naturopathic doctors.
- 16 (k) Chiropractic corporation.
- 17 (1) Licensed physicians and surgeons.
- 18 (2) Licensed doctors of podiatric medicine.
- 19 (3) Licensed psychologists.
- 20 (4) Registered nurses.
- 21 (5) Licensed optometrists.
- 22 (6) Licensed marriage and family therapists.
- 23 (7) Licensed clinical social workers.
- 24 (8) Licensed acupuncturists.
- 25 (9) Naturopathic doctors.
- 26 (10) Licensed professional clinical counselors.
- 27 (l) Acupuncture corporation.
- 28 (1) Licensed physicians and surgeons.
- 29 (2) Licensed doctors of podiatric medicine.
- 30 (3) Licensed psychologists.
- 31 (4) Registered nurses.
- 32 (5) Licensed optometrists.
- 33 (6) Licensed marriage and family therapists.
- 34 (7) Licensed clinical social workers.
- 35 (8) Licensed physician assistants.
- 36 (9) Licensed chiropractors.
- 37 (10) Naturopathic doctors.
- 38 (11) Licensed professional clinical counselors.
- 39 (m) Naturopathic doctor corporation.
- 40 (1) Licensed physicians and surgeons.

- 1 (2) Licensed psychologists.
- 2 (3) Registered nurses.
- 3 (4) Licensed physician assistants.
- 4 (5) Licensed chiropractors.
- 5 (6) Licensed acupuncturists.
- 6 (7) Licensed physical therapists.
- 7 (8) Licensed doctors of podiatric medicine.
- 8 (9) Licensed marriage and family therapists.
- 9 (10) Licensed clinical social workers.
- 10 (11) Licensed optometrists.
- 11 (12) Licensed professional clinical counselors.
- 12 (n) Dental corporation.
- 13 (1) Licensed physicians and surgeons.
- 14 (2) Dental assistants.
- 15 (3) Registered dental assistants.
- 16 (4) Registered dental assistants in extended functions.
- 17 (5) Registered dental hygienists.
- 18 (6) Registered dental hygienists in extended functions.
- 19 (7) Registered dental hygienists in alternative practice.
- 20 (o) Professional clinical counselor corporation.
- 21 (1) Licensed physicians and surgeons.
- 22 (2) Licensed psychologists.
- 23 (3) Licensed clinical social workers.
- 24 (4) Licensed marriage and family therapists.
- 25 (5) Registered nurses.
- 26 (6) Licensed chiropractors.
- 27 (7) Licensed acupuncturists.
- 28 (8) Naturopathic doctors.
- 29 (p) Physical therapy corporation.
- 30 (1) Licensed physicians and surgeons.
- 31 (2) Licensed doctors of podiatric medicine.
- 32 (3) Licensed acupuncturists.
- 33 (4) Naturopathic doctors.
- 34 (5) Licensed occupational therapists.
- 35 (6) Licensed speech-language therapists.
- 36 (7) Licensed audiologists.
- 37 (8) Registered nurses.
- 38 (9) Licensed psychologists.
- 39 (10) Licensed physician assistants.

1 (q) Registered dental hygienist in alternative practice
2 corporation.

3 (1) Dental assistants.

4 (2) Licensed dentists.

5 SEC. 4. Section 1374.196 is added to the Health and Safety
6 Code, to read:

7 1374.196. (a) This section shall only apply to a health care
8 service plan contract covering dental services or a specialized
9 health care service plan contract covering dental services issued,
10 amended, or renewed on or after January 1, 2016.

11 (b) A registered dental hygienist in alternative practice, licensed
12 pursuant to Section 1922 of the Business and Professions Code,
13 may submit or allow to be submitted on his or her behalf any claim
14 for dental hygiene services performed as authorized pursuant to
15 Article 9 (commencing with Section 1900) of Chapter 4 of Division
16 2 of the Business and Professions Code to a health care service
17 plan covering dental services or a specialized health care service
18 plan covering dental services.

19 (c) If a health care service plan contract covering dental services
20 or a specialized health care service plan contract covering dental
21 services provides reimbursement for dental hygiene services that
22 may lawfully be performed by a registered dental hygienist,
23 licensed pursuant to Section 1917 of the Business and Professions
24 Code, reimbursement under that plan contract to a contracted
25 provider, or to an enrollee if out-of-network services are covered,
26 shall not be denied when the service is performed by a registered
27 dental hygienist in alternative practice.

28 (d) (1) Nothing in this section shall preclude a health care
29 service plan contract covering dental services or a specialized
30 health care service plan contract covering dental services from
31 setting different fee schedules for different services provided by
32 different providers.

33 (2) A health care service plan contract covering dental services
34 or a specialized health care service plan contract covering dental
35 services shall use the same fee schedule for dental hygiene services
36 whether the services are performed by a registered dental hygienist
37 or a registered dental hygienist in alternative practice.

38 SEC. 5. Section 10120.4 is added to the Insurance Code, to
39 read:

1 10120.4. (a) This section shall only apply to a health insurance
2 policy covering dental services or a specialized health insurance
3 policy covering dental services issued, amended, or renewed on
4 or after January 1, 2016.

5 (b) A registered dental hygienist in alternative practice, licensed
6 pursuant to Section 1922 of the Business and Professions Code,
7 may submit or allow to be submitted on his or her behalf any claim
8 for dental hygiene services performed as authorized pursuant to
9 Article 9 (commencing with Section 1900) of Chapter 4 of Division
10 2 of the Business and Professions Code to a health insurer covering
11 dental services or a specialized health insurer covering dental
12 services.

13 (c) If a health insurance policy covering dental services or a
14 specialized health insurance policy covering dental services
15 provides for reimbursement for dental hygiene services that may
16 lawfully be performed by a registered dental hygienist, licensed
17 pursuant to Section 1917 of the Business and Professions Code,
18 reimbursement under that policy to a contracted provider, or to an
19 insured if out-of-network services are covered, shall not be denied
20 when the service is performed by a registered dental hygienist in
21 alternative practice.

22 (d) (1) Nothing in this section shall preclude a health insurance
23 policy covering dental services or a specialized health insurance
24 policy covering dental services from setting different fee schedules
25 for different services provided by different providers.

26 (2) A health insurance policy covering dental services or a
27 specialized health insurance policy covering dental services shall
28 use the same fee schedule for dental hygiene services whether the
29 services are performed by a registered dental hygienist or a
30 registered dental hygienist in alternative practice.

31 SEC. 6. No reimbursement is required by this act pursuant to
32 Section 6 of Article XIII B of the California Constitution because
33 the only costs that may be incurred by a local agency or school
34 district will be incurred because this act creates a new crime or
35 infraction, eliminates a crime or infraction, or changes the penalty
36 for a crime or infraction, within the meaning of Section 17556 of
37 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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